

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FAYEDA ABDULLAH ALAWI, et al.,

Case No. 1:20-cv-00608-NONE-SAB

Plaintiffs,

ORDER GRANTING PETITION AND
APPOINTING FAYEDA ABDULLAH
ALAWI AS GUARDIAN AD LITEM FOR
PLAINTIFF G.S.A.A.

U.S. CITIZENSHIP AND IMMIGRATION
SERVICES (USCIS), et al.,

(ECF Nos. 10, 11)

Defendants.

On April 8, 2020, Plaintiffs filed this action seeking declaratory relief, injunctive relief,

and a writ of mandamus, pertaining to claims of violations of immigration law. (ECF Nos. 1, 2.)

On June 25, 2020, the Court continued the mandatory scheduling conference and ordered that a petition for the appointment of a guardian ad litem for Plaintiff G.S.A.A. be filed. (ECF No.

10.)¹ On June 30, 2020, Plaintiff Fayedah Abdullah Alawi (“Fayedah”) filed a petition to be appointed guardian of her minor child G.S.A.A. pursuant to Federal Rule of Civil Procedure 17.

(ECF No. 11.)

Pursuant to Rule 17 of the Federal Rules of Civil Procedure, a representative of a minor or an incompetent person may sue or defend on the incompetent person's behalf. Fed. R. Civ. P. 17(c)(1). If the minor or incompetent person "does not have a duly appointed representative,"

¹ While the Court's previous order used the acronym G.S.A.S., the petition uses the acronym G.S.A.A., and the Court shall employ the Plaintiff's identifier.

1 they “may sue by a next friend or by a guardian ad litem.” Fed. R. Civ. P. 17(c)(2). “The court
2 must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or
3 incompetent person who is unrepresented in the action.” Id. This requires the Court to take
4 whatever measures it deems appropriate to protect the interests of the individual during the
5 litigation. United States v. 30.64 Acres of Land, More or Less, Situated in Klickitat Cty., State
6 of Wash., 795 F.2d 796, 805 (9th Cir. 1986). The appointment of the guardian ad litem is more
7 than a mere formality. Id. “A guardian ad litem is authorized to act on behalf of his ward and
8 may make all appropriate decisions in the course of specific litigation.” Id. A guardian ad litem
9 need not possess any special qualifications, but he must “be truly dedicated to the best interests
10 of the person on whose behalf he seeks to litigate.” AT&T Mobility, LLC v. Yeager, 143
11 F.Supp.3d 1042, 9 (E.D. Cal. 2015). This means that the guardian ad litem cannot face an
12 impermissible conflict of interest with the ward and courts consider the candidate’s “experience,
13 objectivity, and expertise” or previous relationship with the ward. Id. (citations omitted).

14 “[W]hen a parent brings an action on behalf of a child, and it is evident that the interests
15 of each are the same, no need exists for someone other than the parent to represent the child’s
16 interests under Rule 17(c).” Gonzalez v. Reno, 86 F.Supp.2d 1167, 1185 (S.D. Fla.), aff’d sub
17 nom. Gonzalez v. Reno, 212 F.3d 1338 (11th Cir. 2000). While a parent is generally appointed
18 as a guardian ad litem, there are situations where the best interests of the minor and the interests
19 of the parent conflict. Anthem Life Ins. Co. v. Olguin, No. 1:06-CV-01165 AWINEW, 2007
20 WL 1390672, at *2 (E.D. Cal. May 9, 2007). Therefore, a parent is not entitled as a matter of
21 right to act as guardian ad litem for the child. Id., at *2.

22 The Court has reviewed the petition of Plaintiff Fayedra for appointment as guardian ad
23 litem, and the supporting sworn declaration in support of the petition. (ECF No. 11 at 1-6.)
24 Fayedra is the biological mother and petitioner for the I-130 before this Court for G.S.A.A. (Id. at
25 2.) Fayedra has retained counsel and filed this action to aid her and G.S.A.A. in resolving an
26 alleged wrongful revocation of Fayedra’s citizenship and wrongful delay in adjudicating
27 G.S.A.A.’s I-130 petition, which is delaying G.S.A.A.’s ability to come to the United States. (Id.
28 at 3.) Fayedra was separated from G.S.A.A. at birth by G.S.A.A.’s father, and since the father’s

1 death, Fayedha has sought to take G.S.A.A. out of the warzone in Yemen by filing the I-130
2 petition on G.S.A.A.'s behalf. (Id.) Fayedha argues her and G.S.A.A.'s interests are not in
3 conflict, but identical, as Fayedha complains of a wrongful revocation of her certificate of
4 naturalization which has impacted and delayed the interrelated processing of G.S.A.A.'s I-130
5 petition. (Id.; Decl. Fayedha Abdullah Alawi ("Fayedha Decl.") ¶ 3, ECF No. 11 at 5-6.)

6 Fayedha declares that at the age of 15, her ex-husband took G.S.A.A. and divorced Fayedha
7 when G.S.A.A. was one week old, and that in Yemen, the father automatically remains the legal
8 guardian after a divorce. (Fayedha Decl. ¶ 5-6.) Fayedha declares that after she was informed that
9 her ex-husband was murdered and is now deceased, she filed the I-130 petition on behalf of her
10 daughter G.S.A.A., because all of her family is in the United States, and states her ex-husband
11 does not have family in Yemen. (Fayedha Decl. ¶ 7.) Fayedha states G.S.A.A. is stranded in a
12 warzone with no one to take care of her. (Id.)

13 While Fayedha has not been the legal guardian of G.S.A.A. under the laws of Yemen,
14 where G.S.A.A. resides, the Court finds that based on the facts presented in the petition and
15 supporting declaration, Fayedha's interests are aligned with G.S.A.A.'s for the purposes of this
16 litigation, and does not find any apparent conflict of interest that would preclude Fayedha from
17 acting as guardian ad litem in this action.

18 Accordingly, IT IS HEREBY ORDERED that Plaintiff Fayedha Abdullah Alawi is
19 appointed guardian ad litem for minor Plaintiff G.S.A.A.

20 IT IS SO ORDERED.
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22 Dated: July 1, 2020



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UNITED STATES MAGISTRATE JUDGE